

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:16-CT-3295-BO

GARY DALE KEITH,

Plaintiff,

v.

ALL UNITED STATES BUREAU OF  
PRISONS EMPLOYEES,

Defendants.

**ORDER**

This matter is before the court on the Order and Memorandum and Recommendation (“M&R”) of United States Magistrate Judge Robert T. Numbers, II, pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b) [D.E.12]. The court ADOPTS the M&R.

**BACKGROUND**

On November 1, 2016, plaintiff Gary Dale Keith (“Keith”), a federal inmate confined at Butner Medium II FCI (“Butner”) proceeding *pro se*, filed a motion for an injunction [D.E. 1]. On November 23, 2016, Keith re-filed his action in response to an order of deficiency by filing a Complaint pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971) [D.E. 4].

Keith seeks an injunction prohibiting officers from transferring him from Butner where he has received treatment for a tumor. Additionally, Keith alleges that prison officials are violating his constitutional rights by improperly denying him medication that he needs to manage the pain his tumor causes.

On June 26, 2017, Judge Numbers conducted a frivolity review pursuant to 28 U.S.C. § 1915 and allowed the Bivens action to proceed. See M&R [D.E. 12]. However, Judge Numbers


found that Keith had failed to identify the individuals who withheld his medication and directed Keith to file an amendment to his Complaint identifying such individuals. Judge Numbers recommended that the court deny Keith's motion for injunction. See id. On July 12, 2017, Keith amended his Complaint to name Dr. Cardon and Dr. Rivera as defendants. Am. Compl. [D.E. 13]. However, Keith did not file objections to the M&R.

"The Federal Magistrates Act requires a district court to make a *de novo* determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objection is made." Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. 636(b). Absent a timely objection, "a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond, 416 F. 3d at 315 (quotation omitted).

The court has reviewed the M&R, the record, and the pleadings. The court is satisfied that there is no clear error on the face of the record. Accordingly, the court adopts the conclusions in the M&R.

In sum, the court DENIES Keith's motion for injunction [D.E. 1]. As ordered by Judge Numbers, Keith's Bivens action is allowed to proceed. The Clerk is directed to add Dr. Cardon and Dr. Rivera as defendants in this action.

SO ORDERED. This 2 day of <sup>August</sup> ~~July~~, 2017.

  
TERRENCE W. BOYLE  
United States District Judge